



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
P.O. BOX 621  
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STAFF SUBMITTAL

for the meeting of the  
COMMISSION ON WATER RESOURCE MANAGEMENT

September 24, 2009  
Honolulu, Hawaii

Extension of 180-day Deadline to Act on  
Surface Water Use Permit Applications for Existing Uses in the  
Na Wai Eha Surface Water Management Areas, Maui

SUMMARY OF REQUEST:

Staff requests that the 180-day deadline to act on Surface Water Use Permit Applications (Applications) for existing uses in the Na Wai Eha Surface Water Management Areas, Maui, be extended pending appointment of a hearings officer to conduct a Hearing on Objections to the Applications, including the required public notice procedures.

BACKGROUND:

On March 13, 2008, the Commission designated the surface water hydrologic units of Na Wai Eha (Waihee, Waiehu, Iao and Waikapu) in the Wailuku district of Maui as Surface Water Management Areas (SWMA).

Existing users of surface water were required to apply for water use permits to continue existing uses of surface water within a one-year period from the effective date of designation, April 30, 2008 (the date of the Public Notice of the SWMA designation), and no later than April 30, 2009.

The Commission received 125 Applications for existing surface water uses as of April 30, 2009. The State Water Code (Code) requires that the Applications be published in a newspaper at least once a week for two consecutive weeks and also requires a monthly bulletin of all pending Applications. If there are no objections to an application, the Commission "shall" take action on it within 90 days. The Code also provides for objection to an application and response to the objection. An objection may be filed by a person who has some property interest in any land within the hydrologic unit from which the water is drawn, or who will be directly and immediately affected by the water use claimed in the application. If an objection to an application is made by any person who has standing to file an objection, the Commission must hold a hearing on the objection, and the deadline for the Commission to act on the application is extended from 90 to 180 days.

Objections have been filed for all Applications by parties who have standing to file objections. Therefore, a Hearing on Objections for the Applications must be held. October 6, 2009, is the 180-day deadline for the first application that the Commission received with subsequent staggered 180-day deadlines to October 27, 2009, for the remaining Applications.

ANALYSIS/ISSUES:

The Hearing on Objections will be held on Maui at a date, time and place to be announced. A Hearings Officer must first be appointed, public notice procedures followed, and the Hearing held, before the Commission can act on the Applications. The entire process cannot be completed before the first deadline of October 6, 2009. Therefore, staff is requesting that the deadline to act on all the Applications for existing uses be extended to the earliest meeting the Commission can schedule on Maui after the Hearing on Objections is held. The additional time is requested due to the present budgetary and staffing constraints.

RECOMMENDATION:

That the Commission on Water Resource Management extend the deadline to act on all the Surface Water Use Permit Applications for existing uses in the Na Wai Eha Surface Water Management Areas, to the earliest meeting that can be scheduled on Maui after the Hearing on Objections is held.

Respectfully submitted,



KEN C. KAWAHARA, P.E.  
Deputy Director

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN  
Chairperson